
**PLACER COUNTY
AIR POLLUTION CONTROL DISTRICT**

**DISTRICT POLICY:
COMPLIANCE AND ENFORCEMENT POLICY FOR
UN-PERMITTED/UN-REGISTERED PORTABLE EQUIPMENT**

Background/Purpose:

Portable engines and associated portable air pollution emitting equipment must have a District permit or a registration from the Statewide Portable Equipment Registration Program (PERP). Operation of an engine of greater than 50 HP or equipment that emits 2 pounds or more of any pollutant requires a District permit, or for portable equipment a Statewide PERP registration in lieu of a District permit. The State's Airborne Toxic Control Measure for Diesel Particulate Matter from Portable Engines Rated at 50 Horsepower and Greater also states that diesel fueled engines of 50 HP or greater cannot be operated unless they have either a District permit or a Statewide PERP registration.

This policy is needed because the District may discover, or have disclosed to it, portable equipment that does not have either a permit from the District or a registration from the State. The purpose of this policy is provide a guideline for District Staff in seeking compliance with District permit requirements, the Statewide PERP program, and the State's ATCM for portable diesel engines 50 HP and greater. The policy will enable consistency in the enforcement action that is taken for similar violations.

This policy outlines the conditions under which the District's enforcement discretion may be used to allow the temporary operation in Placer County of portable engines or equipment that do not comply with District permit requirements, and which are not registered by the State.

Applicability:

This policy applies to any operator or owner who fails to permit with the District a portable engine of more than 50 HP and associated portable equipment that emits air contaminants in quantities of 2 pounds or more, or in lieu of obtaining district permits has also not registered the engine or equipment under the Statewide Portable Equipment Registration Program.

Policy Statement:

Each violation of the District's permitting requirements, and the failure to have obtained a Statewide Portable Equipment Registration (PERP) in lieu of a District permit, shall result in enforcement action by the District.

The District enforces both its own rules and the State's regulation. For each day that you were required to have a permit or registration and did not have one, you are strictly liable for up to \$1,000 per day in civil penalties, and may be liable for up to \$10,000 per day in civil penalties if the lack of a permit was due to negligent or intentional conduct. Higher penalties may apply if, in addition to not possessing a permit or registration, the equipment emits pollutants in violation of applicable emission standards. Finally, if a permit is sought then late permit application filing fees may apply.

In taking enforcement action for un-permitted and un-registered portable equipment the District will consider as factors in setting the penalty offer whether the violation was discovered by the District or it was voluntarily disclosed, whether prompt action was taken to obtain a permit or registration, whether the violation was intentional or due to negligence, whether emission limitations were violated, and the benefit that accrued from the violation (e.g. avoided costs).

In instances where the operator of un-permitted and un-registered engines or equipment wishes to operate the engines or equipment while a permit or a registration is being obtained, the District may use its enforcement discretion to not take further enforcement action for the operation provided that specified conditions that encourage future compliance are met.

The State's ATCM for portable diesel-fueled engines does not require until January 1, 2010, that all engines be certified to meet federal or California standards for newly manufactured nonroad engines. For this reason the District will use its enforcement discretion to allow operation of a diesel-fueled engine that is not permitted or registered, provided: (1) a settlement is reached on violations that have occurred, (2) the economic benefit of not having a District permit is removed, and (3) there is an enforceable commitment to come into compliance with all air pollution control requirements for the engine by January 1, 2009. Because engine operators did have the opportunity to register engines with the State, the District feels that having an earlier compliance date of 1/1/09, versus 1/1/10 for those that failed to do so, is not unreasonable.

If gasoline or alternatively fueled engines cannot meet permitting or registration emission or equipment standards then the equipment cannot be permitted or registered and as a consequence cannot be legally operated in Placer County. Because the requirements have not substantially changed, the

District is not offering to use its discretion to allow operation of non-complying gasoline or alternatively fueled engines.

District Discovery of Un-Permitted and Un-Registered Portable Engines/Equipment:

If the lack of a permit or registration “in-hand” is discovered by the District, the District will take enforcement action for the discovered violation(s), but the District may elect to not take enforcement action for the further operation of the equipment pursuant to a compliance agreement reached between the Operator and the District. As a part of its conditions, the agreement will require:

- (1) payment of the District’s penalty, if a penalty for the violation has not already been paid;
- (2) that the Operator apply for either a District permit or a State registration for all company equipment subject to permitting/registration in Placer County;
- (3) that the Operator comply with all District or Statewide PERP program requirements; and
- (4) the District permit or PERP Registration must not be denied due to the engine or equipment not meeting standards.

The District’s penalty for not having a permit or registration shall take in to consideration the avoided cost of obtaining a District permit or Statewide PERP registration for each engine or equipment unit.

If a diesel fueled engine of 50 HP or greater cannot be permitted or registered because it cannot meet emission or equipment standards, then in lieu of permitting or registration the agreement will require compliance with all air pollution control requirements for the engine by January 1, 2009. The District will use its discretion in regard to enforcement, since other similar equipment was registered by ARB with new standards not becoming applicable until 2010.

If the outlined agreement conditions are not met, then the agreement will require the Operator pay a specified monetary penalty. If the agreement is voided, then enforcement action may be taken for all days of operation in Placer County without a permit or registration.

An application for a State PERP registration made prior to the discovery of the violation by the District will be taken into consideration as a mitigating factor but it does not negate the violation.

If the Operator voluntarily discloses to the District engines or equipment violating District permit or a Statewide registration, in addition to those discovered by the District, then policy for disclosed violations will be followed for the additional equipment. After an enforcement settlement is

reached for the discovered violations, the further discovery of non-complying additional engines or equipment units will be considered knowing violations for which corrective action was not taken.

Disclosure of Un-Permitted and Un-Registered Portable Engines/Equipment:

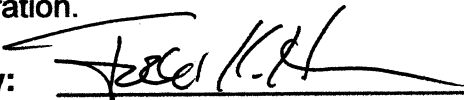
For violations that are voluntarily disclosed to the District, the District may elect to not take enforcement action provided that costs avoided by the Operator and District costs are paid by the Operator, and a compliance agreement is reached between the Operator and the District to encourage future compliance and it is adhered to by the Operator. As a part of its conditions, the agreement will require:

- (1) payment of \$300, plus \$270 for each disclosed un-permitted/un-registered engine and/or equipment unit; that the Operator apply for either a District permit or a State registration for all company equipment subject to permitting/registration in Placer County;
- (2) that the Operator comply with all District or Statewide PERP program requirements; and
- (3) the District permit or PERP Registration must not be denied due to the engine or equipment not meeting standards.

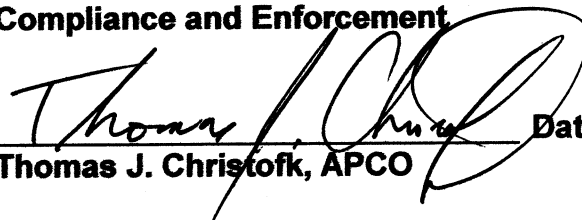
If a diesel fueled engine of 50 HP or greater cannot be permitted or registered because it cannot meet emission or equipment standards, then in lieu of permitting or registration the agreement will require compliance with all air pollution control requirements for the engine by January 1, 2009. The District will use its discretion in regard to enforcement, since other similar equipment was registered by ARB with new standards not becoming applicable until 2010.

If the outlined conditions are not met, the agreement will require that the Operator pay a specified monetary penalty for failing to comply with the agreement. If the agreement is voided, then enforcement action may be taken for all days of operation in Placer County without a permit or registration.

Prepared By:


Todd K. Nishikawa, Manager
Compliance and Enforcement

Approved By:


Thomas J. Christofk, APCO

Date: 1/26/07

Board

Adoption Date: Not Applicable

[1: APCO/TKN/Portable Equipment Registration/Consent Policy and O & A/Portable Equipment Policy.doc]